

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INQUIRY INTO THE PROVISION OF ) ADMINISTRATIVE  
ENHANCED SERVICES IN KENTUCKY ) CASE NO. 338

O R D E R

On August 17, 1992, Cincinnati Bell Telephone Company ("CBT") filed a response to and request for clarification of the Commission's July 14, 1992 Order which required all telephone utilities currently providing enhanced services to file tariffs for those enhanced services or file a petition pursuant to KRS 278.512 and 278.514 requesting exemption from regulation. CBT submits that it should not be required to file a tariff for its protocol conversion services because such services are unregulated, citing a Commission decision in Case No. 10321.<sup>1</sup> CBT also submits that the Federal Communications Commission ("FCC") has preempted state regulation of enhanced services that are jurisdictionally mixed.<sup>2</sup>

In response to CBT's assertion that protocol conversion services are unregulated, the Commission, in its August 1, 1991

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<sup>1</sup> Case No. 10321, The Tariff Filing of South Central Bell Telephone Company to Establish Pulselink Public Packing Switching Network Service and Data Transport Access Channel Service, Order dated May 26, 1989. This decision speaks for itself and CBT's interpretation is debatable.

<sup>2</sup> Petition for Emergency Relief and Declaratory Ruling Filed by BellSouth Corporation, 7 FCC Rcd 1619 (1992). Here, CBT cites a narrow decision that relies on more generic rulings of the FCC and, again, CBT's interpretation is debatable.

Order in this proceeding found, prima facie, that the provision of enhanced services is within the jurisdiction of KRS Chapter 278. The Commission further finds that protocol conversion services are enhanced services as defined by the FCC in 4 CFR Section 64.702(a) to include "[s]ervices offered over common carrier transmission facilities . . . which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different or restructured information; or involve subscriber interaction with stored information." Clearly, protocol conversion falls within this definition. Moreover, in order for the Commission's statutory mandate to be preempted by federal authority, CBT must show that its protocol conversion services cannot be jurisdictionally separated.

IT IS THEREFORE ORDERED that CBT shall, within 30 days of the date of this Order, comply with the July 14, 1992 Order of the Commission which required all telecommunications utilities providing enhanced services in the Commonwealth to file a tariff or file a petition pursuant to KRS 278.512 and KRS 278.514 setting forth the reason why the service should be exempt from regulation or subject to alternative regulation.

Done at Frankfort, Kentucky, this 9th day of October, 1992.

PUBLIC SERVICE COMMISSION

B. E. F. C. C.  
Chairman

Thomas W. Doman  
Vice Chairman

Robert M. Davis  
Commissioner

ATTEST:

Don Mills  
Executive Director